

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX

-----X
JULIO VELASQUEZ,

Plaintiff,

Date Filed:

Index No.

**VERIFIED
COMPLAINT**

-against-

THE CITY OF NEW YORK, DETECTIVE DANIEL
BRADY, and DETECTIVE DAVID TERRELL,

Defendants.

-----X

Plaintiff, JULIO VELASQUEZ by his attorneys, NWOKORO & SCOLA, ESQUIRES,
respectfully alleges upon information and belief as follows:

1. At all times mentioned, Plaintiff JULIO VELASQUEZ, was a resident of Bronx County, City and State of New York.
2. At all times mentioned, the CITY OF NEW YORK, was and is a municipal corporation duly organized and existing by virtue of the laws of the State of New York.
3. That with respect to the arrest and consequent proceedings beginning on February 12, 2014, and terminating on September 6, 2016, on or about December 5, 2016 and within 90 days after the claim herein arose, the plaintiff served a Notice of Claim in writing sworn to on their behalf upon the defendant CITY OF NEW YORK, by delivering a copy thereof in duplicate to the officer designated to receive such process

personally, which Notice of Claim advised the Defendant City of New York, of the nature, place, time and manner in which the claim arose, the items of damage and injuries sustained so far as was then determinable and the claim was assigned the claim number 2016PI034294 by the New York City Comptroller's Office.

4. At least thirty (30) days have elapsed since the service of the notices of claim prior to the commencement of this action and adjustment of payment thereof has been neglected or refused, and this action has been commenced within one year and ninety (90) days after the happening of the event upon which the claims are based.
5. The plaintiff has complied with the request of the municipal Defendants for an oral examination pursuant to Section 50-H of the General Municipal Law and/or the Public Authorities Law and/or no such request was made within the applicable period.
6. Upon information and belief, at all times mentioned, Defendants Detective Daniel Brady and Detective David Terrell were and are police officers of the Defendant City of New York employed by the New York City Police Department (NYPD) and at all times herein were acting in such capacity as the agents, servants and employees of the Defendant, THE CITY OF NEW YORK.

FACTS

7. On Friday January 31, 2014, at approximately 9:10 p.m., two male individuals, Darin Capehart and Ramon Padilla, were shot inside the lobby of 730 East 166th Street, Bronx, New York. Victim Capehart was shot multiple times in the torso causing his death. Victim Padilla was shot three times in his buttocks and twice in his left leg but survived.
8. Immediately following the shooting, on Friday January 31, 2014, Padilla told investigating detective Daniel Brady that an unknown shooter approached him and his friend Darin, and started shooting a firearm for unknown reasons.
9. On or about February 12, 2014, at approximately 8 p.m., at 905 Tinton Avenue, Bronx, New York, plaintiff was in the building where he resides when he was accosted by three plain clothes police officers who physically restrained and handcuffed him and then placed him in a police vehicle and took him to the 42nd Precinct of the NYPD.
10. The unknown police officers were acting at the behest and under the instructions of Detective Daniel Brady.
11. On or about February 12, 2014, plaintiff was arrested by Detective Daniel Brady and charged with Murder, Attempted Murder, Assault, Attempted Assault, and Criminal Possession of a loaded Firearm, all relating to the shooting incident that occurred on January 31, 2014.

12. Plaintiff was not told why he was being arrested by the three unknown plain clothes officers, they just looked at a photograph, and stated, this is our guy. They instructed plaintiff not to speak and told him, we just came to pick you up. The police officers handcuffed the plaintiff, searched him, took him outside the building and placed him in a police van, then transported him to the 42nd Precinct of the NYPD located at 830 Washington Avenue, Bronx, New York.
13. At the 42nd Precinct, plaintiff was placed in a holding cell for about approximately five hours before a police officer came to speak to him. After five hours, a uniformed officer, name unknown, told the plaintiff that plaintiff was waiting for Detectives to come and speak to him.
14. After this, Detective Daniel Brady and Detective David Terrell came to the holding cell and questioned the plaintiff together and separately multiple times over a period of approximately 48 hours.
15. Detective Terrell was profane and verbally abusive to the plaintiff, and also threatened him with physical harm, but did not strike the plaintiff. Detective Terrell stated to the plaintiff, "You bitch ass, we got you now. You getting locked up. You not coming home. You not coming come you bitch ass. Fuck you". Detective Terrell did not at this time tell the plaintiff the crime with which he was being charged.
16. Detective Brady interrogated the plaintiff multiple times over a period of 48 hours. At some time within this period, Brady told the plaintiff

that he had been arrested for murder and attempted murder. Det.

Brady showed plaintiff a photograph of a murder victim and asked him if he recognized the victim.

17. During these interrogations, plaintiff maintained his innocence and stated repeatedly to Detective Brady that he did not understand what was going on and did not do anything.
18. For the entire period of time that he was in police custody, plaintiff was not given any food or anything to drink or allowed to make a phone call.
19. On or about February 14, 2014, plaintiff was taken to Central Booking in the Bronx.
20. That while plaintiff was being detained, defendants Brady and Terrell, completed arrest paperwork, in which they swore in part, that plaintiff had committed a crime and or offense.
21. That the factual claims made by the defendants, were materially false and the defendants knew it to be materially false at the time they first made it, and every time thereafter, when they repeated it.
22. That defendants Brady and Terrell, forwarded these false allegations to the Bronx County District Attorney (BCDA) in order to justify the arrest and to persuade the BCDA to commence the plaintiff's criminal prosecution.

23. That as a direct result of these false allegations by the defendant police officers, the plaintiff was criminally charged in the Supreme Court of the State of New York, Criminal Term, Bronx County, under case number 00630-2014 with the crimes of murder, attempted murder, assault, attempted assault, possession of a loaded firearm and manslaughter, all relating to the shooting incident on January 31, 2014.
24. That the plaintiff remained in the custody of the defendant police officers until he was brought before a Judge of the Criminal Court, Bronx, County, arraigned, and further detained. Plaintiff was remanded without bail and spend the next 29 months in various correctional facilities within the City of New York, including Riker's Island.
25. The arrest of the plaintiff on or about February 12, 2014, was without probable cause.
26. The arrest of the plaintiff on or about February 12, 2014 was motivated by malice and a desire on the part of the defendant police officers to injure the plaintiff and to increase by unlawful and underhanded means, the number of arrests credited to the defendants, as a way of advancing their careers as police officers.
27. That at no time prior to or during the above events was there probable cause to arrest the plaintiff, nor was it reasonable for the defendants to believe that probable cause existed.

28. Defendants Brady and Terrell intentionally and deliberately gave false statements and/or failed to file accurate or corrective statements.
29. Upon information and belief, the arresting Police Officer who initiated the arrest of the plaintiff and led the investigation into the shooting incident of January 31, 2014, was Det. Daniel Brady.
30. Upon information and belief, Det. Terrell assisted in the investigation and interrogation of the plaintiff and in so doing, improperly suborned and coerced witnesses into giving false evidence against the plaintiff, all in tandem with Det. Brady who also suborned witnesses and coerced witnesses into giving false testimony against the plaintiff.
31. On or about February 1, 2014, and the days immediately after that day Detectives Terrell and Brady interrogated witness and Victim Ramon Padilla at various locations including, Lincoln Hospital, and at the 42nd Precinct, during these interrogations, Detectives Brady and Terrell suggested to Mr. Padilla and other witnesses that they already knew who the shooters were and suggested to Mr. Padilla and the other witnesses that the perpetrators of the shooting were plaintiff Velasquez, and Salim Wilson.
32. Upon information and belief Detective Brady alternatively threatened and cajoled Mr. Padilla and another unidentified witness into identifying plaintiff Julio Velasquez, and Salim Wilson as the perpetrators of the shooting although the detectives had no

reasonable basis to believe that Mr. Velasquez was involved in the shooting.

33. Upon information and belief, Detective Terrell threatened Mr. Padilla and another unidentified witness with physical harm and arrests, in order to get them to wrongly identify Julio Velazquez as one of the people involved in the shooting of January 31, 2014.
34. That on or about February 12, 2014, Detective Brady arranged and administered a photo array identification procedure whereupon Raymond Padilla, a witness and victim of the shooting, identified plaintiff Velasquez as "the shooter".
35. That during this photo array, Detective Brady improperly assisted the witness, Raymond Padilla, in picking out the photograph of the plaintiff Julio Velasquez, and suggested to the witness that, he, Detective Brady, had other evidence linking Mr. Velasquez to the shooting, when in fact, there was no such evidence.
36. That on or about February 12, 2014, Detective Brady arranged and administered a line up procedure where Mr. Velasquez was identified by witness Raymond Padilla, as being involved in the shooting of January 31, 2014. During this procedure, Det. Brady improperly tampered with the procedure by suggesting that Mr. Padilla should pick Mr. Velasquez out of the line-up.

37. As a result of the false arrest, plaintiff was forced to hire an attorney to defend himself from the bogus criminal charges and was caused to attend court multiple times to defend the same criminal charges, from February 12, 2014, until September 6, 2016.
38. That while in custody at Riker's Island plaintiff was denied food and denied commissary multiple times and suffered physical deprivation as a result.
39. That plaintiff suffered mental damage and degradation and sought psychiatric and psychological treatment. Plaintiff received counseling and psychological treatment from the NYC Department of Corrections Medical Facilities, and was placed on the medications, Trazodone and Remeron, for about 20 months while at Riker's Island.
40. That on or about September 6, 2016, after approximately 20 court appearances over a three year period, all criminal charges against Julio Velasquez, stemming from the arrest of February 12, 2014, were dismissed without trial.

**FIRST CAUSE OF ACTION: AGAINST DETECTIVE
DANIEL BRADY AND THE CITY OF NEW YORK
(Assault and Battery)**

41. Plaintiff re-alleges all the allegations contained in all preceding paragraphs of this complaint with full force and effect as though set forth at length herein.

42. On or about February 12, 2014, at the criminal court in the Bronx, defendant Brady, by means of police officers whose names are currently unknown, acting according to his instructions, jointly and severally in their capacity as police officers wrongfully touched, grabbed, handcuffed and seized the plaintiff JULIO VELASQUEZ, in an excessive manner about his person, causing him physical pain and mental suffering. At no time did the defendants have legal cause to grab, handcuff, seize, or touch the plaintiff, nor did the plaintiff consent to this illegal touching, nor was it privileged by law.
43. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages against DETECTIVE BRADY and THE CITY OF NEW YORK in an amount to be proven at trial against each of the defendants, individually and severally.
44. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK is vicariously liable for the defendant officers acts described above.

**SECOND CAUSE OF ACTION: AGAINST DETECTIVE
DANIEL BRADY AND THE CITY OF NEW YORK**
(False Arrest)

45. As and for a second cause of action: Plaintiff repeats and re-alleges preceding allegations of this complaint with full force and effect as though set forth at length herein.

46. On or about February 12, 2014, at the Criminal Courthouse, in the Bronx, the defendant Brady, without a lawfully obtained warrant order or other legal process, and without any legal right, wrongfully and unlawfully arrested the plaintiff, restrained him and his liberty and then took him into custody to a police station in the County of the Bronx. The plaintiff was thereafter held in custody over the course of approximately 31 months until he was released on or about September 6, 2014. The defendant intentionally confined the plaintiff without his consent and the confinement was not otherwise privileged by law, and at all times, the plaintiff was conscious of his confinement.
47. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against DETECTIVE BRADY.
48. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

**THIRD CAUSE OF ACTION: AGAINST DETECTIVES
BRADY, TERRELL AND THE CITY OF NEW YORK
(False Imprisonment)**

49. Plaintiff repeats and re-alleges all the allegations contained in the preceding paragraphs of this complaint with full force and effect as though set forth at length herein.

50. On or about February 11, 2014, in the Bronx, the defendants, jointly and severally, without any valid warrant, order or legal process and without any legal right, wrongfully and unlawfully imprisoned the plaintiff, restrained his liberty and then took him into custody and caused him to be incarcerated as a detainee in New York City's Correctional Facility. The plaintiff was thereafter held in custody for 31 months before he was released. The defendants intentionally confined the plaintiff without his consent and the confinement was not otherwise privileged by law and at all times, plaintiff was conscious of his confinement.
51. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against Detectives BRADY and TERRELL individually and severally.
52. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

**FOURTH CAUSE OF ACTION: AGAINST DETECTIVES
BRADY, TERRELL AND THE CITY OF NEW YORK**
(Malicious Prosecution)

53. Plaintiff incorporates, repeats and re-alleges all of the allegations contained in all preceding paragraphs of this complaint with full force and effect as though set forth at length herein.

54. From on or about February 12, 2014, to September 6, 2016, the defendants, jointly and severally, maliciously prosecuted plaintiff for the crimes of murder, attempted murder and manslaughter although they had no lawful reason to believe that he in fact committed those crimes they intentionally prosecuted him for those crimes with an intent to unlawfully punish, intimidate and harass the plaintiff, and thereby they caused plaintiff severe damages including loss of liberty, physical injury to his person, and severe mental suffering.
55. On or about September 6, 2016, after 29 months of unlawful imprisonment, all the false criminal charges against the plaintiff were dismissed without trial.
56. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against DETECTIVES BRADY and TERRELL, individually and severally.
57. The defendant officers were at all material times acting within the scope of their employment, and as such, the defendant CITY OF NEW YORK, is vicariously liable for the defendant officers actions described above.

**FIFTH CAUSE OF ACTION: AGAINST DETECTIVE
DANIEL BRADY AND THE CITY OF NEW YORK**
**(False arrest/imprisonment: unlawful search and seizure
deprivation of rights in violation of the 4th and 14th
amendments, brought pursuant to 42 U.S.C. 1893)**

58. By this reference, plaintiff incorporates each and every allegation and averment set forth in the preceding paragraphs of this complaint as though fully set out herein.
59. In the arrest, detention and imprisonment of plaintiff on or about February 12, 2014, defendants, acting under color of state law, deprived the plaintiff of his right to be free from unreasonable search and seizure and arrest without probable cause or reasonable suspicion as required by the Fourth and Fourteenth Amendments, therefore, defendants are liable for violation of 42 U.S.C. Section 1983 which prohibits the deprivation under color of state law of rights secured under the United States Constitution.
60. The defendants subjected the plaintiff to such deprivations, either in a malicious or reckless disregard of the plaintiff's rights or with deliberate indifference to those rights under the fourth and fourteenth amendments to the United States Constitution.
61. As a result of the aforesaid violation, plaintiff has been caused to suffer humiliation, great mental and physical anguish, embarrassment and scorn among those who know him, was prevented from attending

to his necessary affairs, and has been caused to incur legal expenses, and has been otherwise damaged in his character and reputation.

62. Consequently, plaintiff has been damaged and hereby demands compensatory and punitive damages in an amount to be proven at trial against each defendant, individually and severally.
63. The defendant officers were at all material times acting within the scope of their employment and as such, the defendant, the CITY OF NEW YORK, is vicariously liable for the defendant officers acts as described above.

SIXTH CAUSE OF ACTION: AGAINST DETECTIVES
BRADY, TERRELL AND THE CITY OF NEW YORK
(Malicious Prosecution/Deprivation of Liberty in violation of the 4th and 14th amendments, brought pursuant to 42 U.S.C. 1983)

64. By this reference, plaintiff incorporates each and every preceding allegation and averment of this complaint as though fully set forth herein.
65. That DETECTIVES BRADY AND TERRELL were directly involved in the initiation of criminal proceedings against the plaintiff.
66. That the defendant officers lacked probable cause to initiate criminal proceedings against the plaintiff.
67. That the defendant officers acted with malice in initiating criminal proceedings against the plaintiff.

68. That the defendant officers were directly involved in the continuation of criminal proceedings against the plaintiff.
69. That the defendant officers lacked probable cause in continuing criminal proceedings against the plaintiff.
70. That the defendant officers acted with malice in continuing criminal proceedings against the plaintiff.
71. That the defendant officers misrepresented and falsified evidence throughout all phases of the criminal proceeding.
72. That the defendant officers misrepresented and falsified evidence to the prosecutors in the Bronx County District Attorney's office.
73. That the defendant officers withheld exculpatory evidence from the prosecutors in the Bronx County District Attorney's office.
74. That the defendant officers did not make a complete statement of facts to the prosecutors in the Bronx County District Attorney's office.
75. The arrest, imprisonment and prosecution of the plaintiff was malicious and unlawful, because plaintiff had committed no crime and there was no probable cause to believe that plaintiff had committed any crimes.
76. The defendant officers actions were intentional, unwarranted and in violation of the law. The defendant officers had full knowledge that the charges made before the court against the plaintiff were false and untrue.

77. By their conduct as described above, and acting under color of state law, defendants are liable to the plaintiff under 42 U.S.C. §1983 for the violation of his constitutional right to be free from malicious prosecution under the Fourth and Fourteenth Amendments to the United States Constitution.
78. As a consequence of the malicious prosecution by the defendant officers, plaintiff's suffered a significant loss of liberty, humiliation, mental anguish, depression, and his constitutional rights were violated. Plaintiff hereby demands compensatory damages and punitive damages, in an amount to be determined at trial, against DETECTIVE DANIEL BRADY and DETECTIVE DAVID TERRELL individually and severally.
79. The defendant officers were at all material times acting within the scope of their employment and as such, the defendant, the CITY OF NEW YORK, is vicariously liable for the defendant officers acts as described above.

SEVENTH CAUSE OF ACTION
(Monell Claim)

80. Plaintiff incorporates, repeats and re-alleges all of the preceding allegations of this complaint with full force and effect as though set forth at length herein. This cause of action is brought pursuant to 42 U.S.C. § 1983 for violations of the Fourth and Fourteenth Amendments to the United States Constitution. It applies to the City of New York

and police officers sued in their official capacity and should be characterized as a "Monell" claim).

81. Defendants CITY OF NEW YORK has grossly failed to train and adequately supervise its police officers in the fundamental law of arrest, search and seizure especially when its police officers are not in possession of a court authorized arrest and/or search of individuals warrant, especially with respect to the principle and policy that the arrest should be based on probable cause.
82. The City of New York was negligent and/or deliberately indifferent by failing to implement a policy with its police department and instruct police officers who, absent the consent of the Plaintiff (or similarly situated individuals) or without the possession of a court authorized arrest a search warrant, said police officers of the City of New York are not to arrest individuals such as the Plaintiff here where probable cause is lacking.
83. The City of New York is negligent or has acted with deliberate indifference due to its failure to implement a policy with its Police Department or actively enforce the law, if any of the following are lacking: Probable cause must be present before an individual such as the plaintiff herein can be arrested.
84. The City of New York is negligent or has acted with deliberate indifference due to its failure to implement a policy with its Police

Department that prohibits, and punishes Police Officers for manufacturing false evidence against criminal defendants.

85. The foregoing acts, omissions and systemic failures are customs and policies of the CITY OF NEW YORK which caused the police officers to falsely arrest, illegally seize and search, maliciously prosecute, improperly manufacture evidence against, and suborn false testimony against the Plaintiff, under the belief that they would suffer no disciplinary actions for their failure to take proper or prudent steps in this case.
86. The defendant's deliberate indifference is further evident by and through the lack of meaningful investigation and punishment of transgressors. Upon information and belief, the NYPD Internal Affairs Bureau (IAB) investigations rarely lead to administrative trials, and when they do, and the charges are somehow sustained, the punishment is minimal, thereby lacking any deterrent effect.
87. Upon information and belief, officers operated with the tacit approval of their supervisors and up the ranks, with an "ends justifying the means" mentality. This mentality includes a custom or practice of stopping, or stopping and frisking first, then establishing reasonable suspicion after the fact. Use of force was viewed as collateral damage of the stop and frisk policy established by the NYPD.

88. Police officers were rarely, if ever brought up on charges, investigated or disciplined for their over aggressive attempts to solve crimes including manufacturing evidence, and brutalizing witnesses.
89. Precinct commanders and supervisors were rarely, if ever, investigated, disciplined, reassigned or retained due to their own observations of misconduct, review of data or complaints from citizens for 4th Amendment violations, illegal search and seizure, illegal entry into citizen's homes without a warrant, false arrests, witness intimidation, submitting false police reports and other constitutional rights violations occurring in their command, under their watch.
90. Defendant the City of New York by its police department, acted with deliberate indifference to the need to reform their customs and practices which included as stated herein, rampant examples of constitutional violations of its citizenry, thereby lending tacit approval to the unconstitutional conduct. Upon information and belief, the City, the police commissioner and/or the named defendants herein, were more interested in meeting "numbers" than they were safeguarding the constitutional rights of its citizens.
91. The acts of police officers who violate the civil and constitutional rights of the citizens of New York routinely go unreported by fellow police officers, not investigated by their superior officers, and consequently their acts, actions, omissions go unpunished. Failure to intervene and

report is the norm, not the exception. Consequently, the acts of police officers who use excessive force, profile citizens racially, make false arrests, make false charges, falsely detain citizens and make false reports against them, make warrantless entry into the homes of citizens, etc, are condoned by other officers present, their supervisors, precinct commanders, and the police commissioner.

92. The City of New York and NYPD's tolerance for brutality, excessive force, illegal and/or retaliatory arrests, and the emphasis to "come down hard on quality of life infractions" leads to a systemic practice and policy wherein City officials are tolerant, both outwardly and inwardly of police brutality, silence in the face of such brutality and/or illegal stops, frisks, searches, seizures and/or arrests, warrantless entry into citizen's homes and quota arrests. A systemic practice where officers who report said misconduct are not viewed as "good cops" but rather as outcasts and "snitches" and are isolated, ostracized and often transferred, thereby perpetuating the illegal conduct of other officers.
93. There is a pervasive pattern, custom and de facto policy of the City of New York to allow its police officers to violate the constitutional rights of citizens, as reported in the New York Daily News expose of Sunday May 19, 2013 where the Daily News reported a litany of unconstitutional actions taken by the NYPD teams of police officers that have been the subject of lawsuits and departmental hearings but

resulted in virtually no reprimands to the offending officers, rather, one officer was promoted to a Lieutenant even when his actions were known to be unconstitutional.

94. The defendants subjected the plaintiff to these deprivations, either in a malicious or reckless disregard of the plaintiff's rights or with deliberate indifference to those rights under the fourth and fourteenth amendments to the United States Constitution.
95. The direct and proximate result of the Defendant's acts are that the plaintiff has suffered severe and permanent injuries of both of a physical and psychological nature, was forced to endure pain and suffering, all to his detriment.

WHEREFORE, plaintiff, JULIO VELASQUEZ, demands judgment against the defendants, jointly and severally, in an amount of damages which exceeds the monetary jurisdictional limits of any and all lower courts which would otherwise have jurisdiction in the amount determined upon trial of this action.

Dated: New York, New York
July 27, 2017

_____/S/_____
Chukwuemeka Nwokoro
Nwokoro & Scola, Esquires
Attorney for the Plaintiff
44 Wall Street, Suite 1218
New York, New York 10005
(212) 785-1060

VERIFICATION

STATE OF NEW YORK)
COUNTY OF NEW YORK)

I, the undersigned, an attorney duly admitted to practice law in the State of New York, under penalties of perjury do affirm;

That I am the attorney of record for the plaintiff in the within matter and make this affirmation in accordance with CPLR 3020. I have read the within SUMMONS AND VERIFIED COMPLAINT and know the contents thereof to be true to your affirmant's own knowledge, with the exception of those matters therein stated to be alleged upon information and belief. Your affirmant bases his belief regarding those matters upon the contents of the file and conversation with the plaintiffs.

This verification is made by your affirmant and not by the plaintiff for the following reason; plaintiff resides in a different County than where your affirmant maintains an office.

Dated: New York, New York
July **27**, 2017

_____/S/_____
CHUKWUEMEKA NWOKORO